

ENTERED

April 01, 2020

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

DANTE TRICE, ET AL.,

Plaintiffs.

VS.

PEARLAND INDEPENDENT
SCHOOL DISTRICT, ET AL.,

Defendants.

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CIVIL ACTION NO. 3:19–CV–00286

**ORDER ADOPTING MAGISTRATE JUDGE'S
MEMORANDUM AND RECOMMENDATION**

On March 16, 2020, United States Magistrate Judge Andrew M. Edison filed a Memorandum and Recommendation (Dkt. 42) recommending that (1) Defendant Tony Barcelona's Motion to Dismiss (Dkt. 16); (2) Defendant Helen Day's Motion to Dismiss (Dkt. 17); (3) Defendant Jeanette Peterson's Motion to Dismiss (Dkt. 18); and (4) Defendant Pearland Independent School District's Motion to Dismiss (Dkt. 19) (collectively, "Defendants Motions to Dismiss") be **GRANTED in part and DENIED in part.**

On March 27, 2020, Defendants Helen Day, Tony Barcelona, and Jeanette Peterson filed their Objections. *See* Dkts. 43–44. On March 30, 2020, Plaintiffs filed their Objections. *See* Dkt. 45. In accordance with 28 U.S.C. § 636(b)(1)(C), this Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court

may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* FED. R. CIV. P. 72(b)(3).

The Court has carefully considered the Objections; the Memorandum and Recommendation; the pleadings; and the record. The Court **ACCEPTS** Judge Edison’s Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that:

- Judge Edison’s Memorandum and Recommendation (Dkt. 42) is **APPROVED AND ADOPTED** in its entirety as the holding of the Court;
- Defendants Motions to Dismiss (Dkts. 16–19) are **GRANTED in part and DENIED in part**;
- Specifically, Trice and Washington, in their individual capacities, are dismissed for lack of standing. Pearland ISD is dismissed. And, all of J.T.’s federal claims under 42 U.S.C. § 1983—Fourth Amendment (excessive force), Fifth Amendment (due process), Fourteenth Amendment (due process and equal protection), Title VI of the Civil Rights Act of 1964—and his race discrimination claim under 42 U.S.C. § 1985 are dismissed;
- In the interest of clarity, only J.T.’s state law assault claim against Defendants Helen Day, Tony Barcelona, and Jeanette Peterson survive this order; and
- Trice and Washington remain as plaintiffs only in their representative capacities as J.T.’s parents.

It is so **ORDERED**.

SIGNED and ENTERED this 1st day of April, 2020.

A handwritten signature in black ink, reading "Jeff Brown", written over a horizontal line.

JEFFREY VINCENT BROWN
UNITED STATES DISTRICT JUDGE